



Title IX **BULLYFREE** Montana

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Title IX Protections From Bullying & Harassment in School

Have you experienced sexual harassment and bullying in school? Under Title IX you have a right not to be sexually harassed in school. Your school must protect you by preventing harassment and stopping any harassment that does occur. Below are answers to frequently asked questions from students about how Title IX can make them safer in school.

What is Title IX and how does it apply to bullying?

Title IX is not just about sports! It is a federal law that prohibits discrimination on the basis of sex—including harassment and bullying—in schools that receive federal funding. This means that school districts may violate Title IX when sex-based harassment by classmates (or peers) is so serious that it creates a hostile environment for the victim and such harassment is encouraged, tolerated, not adequately addressed, or ignored by school employees.

Does Title IX apply to discrimination against boys and men?

Yes. Title IX protects every student from sexual harassment or gender-based harassment in schools. It also applies to school employees, such as teachers.

What is “harassment”?

Harassment can take many forms. It can be verbal acts, like name-calling, images and graphics, written statements, or other actions that may be physically threatening, harmful, or humiliating. Harassment can include the use of cell phones or the internet (sometimes known as “cyberbullying”). It does not matter whether the harasser *intends* to harm or not, and harassment does not necessarily require repeated incidents. For the harassment to be prohibited by Title IX, it must be “on the basis of sex,” which includes sexual harassment and gender-based harassment.

What is sexual harassment?

Sexual harassment is unwelcome conduct of a sexual nature. It comes in many forms, and can include sexual advances, requests for sexual favors, or other conduct—both verbal and non-verbal—of a sexual nature. Sexual touching, sexual comments, jokes, gestures, graffiti, drawings, pictures, and writing can all be examples of sexual harassment.

What is gender-based harassment?

Gender-based harassment means harassment or bullying because a student does not conform to gender stereotypes—for example, harassment of a female student because she does not act the way that her peers think that girls should act.

Examples of harassment:

- A female student “hooked up” with a boy at her school, and now a group of girls are repeatedly texting her and tweeting about her at school, calling her a “slut” and a “whore.” This is gender-based harassment.
- Another female student sent her boyfriend “sexts” and pictures of herself naked. Then they break up. The boyfriend shares these sexts and photos with his friends at school to get back at her. He also spreads rumors about her sexual behavior. This is sexual harassment.

- A male student has mostly female friends, he sings Lady Gaga songs in the hallway and is on the dance team. Fellow students call him a “fairy,” “gay boy,” or “queer,” and tell him he should run for homecoming queen. This is gender-based harassment.

Do the harassing student and victim have to be of the opposite sex?

No. As long as the harassment or bullying is on the basis of sex, it does not need to come from a student of the opposite sex to be prohibited by Title IX.

When does harassment create a hostile environment?

Harassment creates a hostile environment when it is sufficiently severe, pervasive, or persistent that it interferes with or limits a student’s ability to participate in or benefit from school, including all activities and services.

What must my school do to protect me?

A school must do something about harassment that it knows about or reasonably should know about. If harassment is reported, or if it is widespread or well-known to students and staff, the school has to respond. A school is required investigate the harassment in a prompt, thorough, and fair way. If a school determines that sexual harassment has occurred, it must take effective steps to end the harassment and prevent it from happening again.

What if my school has an anti-bullying policy?

An anti-bullying policy does not mean the school’s work is done. Even if it has policies in place that prohibit bullying and harassment, your school is responsible for investigating, ending, and preventing harassment.

What can my school do if I’m experiencing harassment or bullying?

There are many ways that your school can respond to your harassment. It could separate your harasser from you, provide counseling for you and/or the harasser,

and provide training to the school community as a whole so that all students, families, and school staff can recognize harassment and know what steps to take. Your school should not discipline you because have been bullied or harassed, and should not require you to change your class schedule or make other changes to your educational program to avoid the harasser.

Is there someone in my school or district who should know about Title IX?

Yes. Hopefully more than one person knows about the law’s requirements, but Title IX requires that a district designate at least one employee as a “Title IX Coordinator,” to make sure the school is following the law. As part of this requirement schools must investigate any claims of sex discrimination.

What are my legal options?

Schools are responsible for complying with Title IX, and this responsibility can be enforced by the U.S. Department of Education’s Office for Civil Rights (OCR)—you can [file a complaint with OCR online](#)—or through a lawsuit in federal court. You should talk to a lawyer to find out your options.

Are there any other anti-bullying laws?

Yes. Almost every state has its own anti-bullying laws, which add other protections and requirements to those of Title IX. Check the Department of Education’s [recent report on state bullying laws and policies](#), or ask an attorney to find out if you have additional protections.

For help or information, please contact the National Women’s Law Center at info@nwlc.org, or (202) 588-5180.

Bullying and Harassment may also be Discrimination

The U.S. Department of Education's Office for Civil Rights (OCR) issued a "Dear Colleague" letter of guidance to educational institutions and agencies across the country reminding them of their legal obligations to protect students from bullying and harassment pursuant to federal civil rights laws, including Title IX. <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.pdf>

The OCR letter explains:

The statutes that OCR enforces include Title VI of the Civil Rights Act of 1964 (Title VI), which prohibits discrimination on the basis of race, color, or national origin; Title IX of the Education Amendments of 1972 (Title IX), which prohibits discrimination on the basis of sex; Section 504 of the Rehabilitation Act of 1973 (Section 504); and Title II of the Americans with Disabilities Act of 1990 (Title II). School districts may violate these civil rights statutes and the Department's implementing regulations when peer harassment based on race, color, national origin, sex or disability is sufficiently serious that it creates a hostile environment and such harassment is encouraged, tolerated, not adequately addressed, or ignored by school employees.

The applicable federal laws do not specify discrimination based on sexual orientation, but the OCR clarifies that there is overlap between sex discrimination and harassment based on sexual orientation. When harassment targets a student for failing to conform to sex stereotypes (e.g., male who is perceived to be too effeminate looking or acting), it is considered sex discrimination that requires school officials' response.

Additional steps to address identified harassment or bullying-type discrimination may include: counseling and other appropriate resources for the affected students, providing school-wide training on the issues, issuing public statements on the school's policy regarding discrimination, and interim as well as long-term measures to protect students from alleged harassers.

When a student or parent believes a student is being harassed in a manner that is covered by Title IX, they should follow local school policies in notifying the school's Title IX Coordinator and request an investigation. If school officials are made aware of the harassment, but the affected student or parent believes the school has made inadequate response to the situation, they may file a complaint with the OCR. The local school Title IX Coordinator will have information on how to file a complaint, and additional information may be accessed at the following link: <http://www2.ed.gov/about/offices/list/ocr/complaintprocess.html>